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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

JOHN L. EDMONDS, individually and as a Managing  
General Partner of FIFTH AND  
106<sup>TH</sup> STREET HOUSING COMPANY, INC.,  
LOGAN PLAZA ASSOCIATES, LP CHARLES H.  
ASSOCIATES a/k/a CHARLES H. HILL  
ASSOCIATES, LP AND AS A LIMITED PARTNER  
OF CHURCH HOME ASSOCIATES, LP,

Plaintiff,

- against -

ROBERT W. SEAVEY, individually and as a General  
Partner of FIFTH AND 106<sup>TH</sup> STREET ASSOCIATES,  
LP, LOGAN PLAZA ASSOCIATES, LP, CHARLES  
HILL ASSOCIATES, CHARLES HILL ASSOCIATES,  
LP and as a Limited Partner of CHURCH HOME  
ASSOCIATES, LP; PHYLLIS M. SEAVEY, individually  
and as owner, manager and member of DALTON  
MANAGEMENT COMPANY LLC; AVERY B.  
SEAVEY, individually and as a General Partner of  
LOGAN PLAZA ASSOCIATES, LP, CHURCH  
HOME ASSOCIATES and owner of DALTON  
MANAGEMENT COMPANY, LLC; and RONALD  
DAWLEY, as Chief Executive Officer of DALTON  
MANAGEMENT COMPANY, LLC;  
DALTON MANAGEMENT COMPANY, LLC, and  
THE SEAVEY ORGANIZATION; and MARKS  
PANETH & SHRON, Auditors,

Defendants.

08 – CV – 5646 (HB)

**NOTICE OF MOTION  
TO DISMISS THE  
COMPLAINT AS AGAINST  
DEFENDANT MARKS  
PANETH & SHRON  
PURSUANT TO FED. R. CIV.  
PROC. 12(B)(6) AND 9(B)**

**PLEASE TAKE NOTICE** that upon the accompanying Declaration of William J. Kelly, Esq., dated December 12, 2008, and the exhibit annexed thereto, the defendants Marks, Paneth & Shron, LLP, will move this Court, at a time to be determined by the court, at the United States District Court located at Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, New York, New York 10007-1312 or as soon thereafter as counsel may be heard, for an order pursuant to Fed. R. Civ. Pro. 12(b)(6) and 9(b), for an order dismissing the complaint as against Marks Paneth & Shron, LLP in its entirety and for any other relief the court finds just and proper.

**PLEASE TAKE FURTHER NOTICE**, that pursuant to Local Rule 6.1(b) any and all opposing Affirmations and/or Affidavits are to be served within 10 business days of the date of service of this motion.

Dated: New York, New York  
December 12, 2008

Wilson, Elser, Moskowitz, Edelman  
& Dicker LLP

By:



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*Proceeding Defendants*

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